SPRING 2025: UNENDING CONVERSATION

STETSON LAW REVIEW FORUM

# FROM WRINGING HANDS TO HARNESSING AWE: LEVERAGING LARGE LANGUAGE MODELS TO ENHANCE LEGAL EDUCATION

*Rebekah Hanley**

Responding to *Legal Writing Faculty Must Develop Scholarship on Generative AI And Legal Writing*

> "Generative artificial intelligence, in the form of large language models that can generate comprehensible human-sounding communication from scratch, represents a likely paradigm shift in legal communication teaching, learning, and practice. . . . [We] are at the beginning of a journey that will likely result in a revision of our worldview about legal writing and legal writing education."[1]

## *I. INTRODUCTION: A NEW LENS FOR LEGAL EDUCATION*

Generative artificial intelligence ("AI") is impressive—powerful and fast. Experimenting with it—specifically, using a large language model ("LLM") for drafting assistance—has left many legal professionals amazed. It can work capably with large amounts of information, synthesizing, summarizing, explaining, critiquing, translating, and more. It can complete all this work far faster than any human could, spitting out a draft in minutes that otherwise might take months to produce. For subject matter experts capable of noticing generative AI's gaps and errors, the technology already is boosting efficiency by saving time and energy on tedious tasks. As generative AI further improves, it promises to be even more helpful to experienced professionals working to produce polished, thorough writing at the lowest possible

 Clinical LRW Professor and current Galen Scholar in Legal Writing, University of Oregon School of Law. Support from the law school's Galen Endowment for the Advancement of Legal Writing was instrumental in completing this project. This work has been shaped by countless presentations and conversations, both formal and informal, with higher education colleagues and other professionals near and far, beginning in December 2022. And it is stronger because of the input of generous colleagues who reviewed it and offered constructive criticism: Professors Lindsey Gustafson, Emily Grant, Margie Alsbrook, Anne Mullins, Ezra Ross, and Stephanie Thompson. Much of that input occurred through the valuable collaboration opportunities created by the 2024 SEALS Annual Conference.

[1] Kirsten K. Davis, *A New Parlor Is Open: Legal Writing Faculty Must Develop Scholarship on Generative AI and Legal Writing*, 7 STETSON L. REV. F. 1, 1–2, 7 (2024) (footnotes omitted).

cost to clients.

But law students are novices, not experts; they begin to develop expertise by completing the type of synthesis and written explanation that can now be delegated to LLMs. So the legal academy's appropriate response to this emerging technology has left many educators feeling uncertain, conflicted, and drained. Any attempt to count the hours of generative AI related panic, problem solving, experimentation, research, professional development programming, and informal debate I've endured over the past two years would be futile. Some legal educators have been wringing our collective hands about this emerging technology since the public launch of ChatGPT in late November 2022; others have been content to ignore generative AI for as long as possible, hoping its impact on our work would be minimal and trusting that, if they were wrong, their colleagues would figure out a wise forward path forward.[2]

Two years in, no clear path has emerged. Some legal educators continue to discount generative AI. Some are banning its use; some are selectively permitting it; and others are embracing and teaching it, learning to use the technology alongside their students. Most law faculty continue to ask hard questions and discuss the many puzzles that generative AI presents. But consensus appears to be elusive, and decisive action at the law school level seems to be the exception. Continual fretting feels more common.

Enough. While we must continue conversing about the implications of generative AI, and we need to be thoughtful and prudent, we also must start acting—with a sense of both purpose and urgency. As educators, we need to stop amusing ourselves with the poems that generative AI can quickly craft and focus instead on how it affects the pursuits of law students and lawyers. More specifically, we need to retool legal education for the generative AI era.[3]

Because the technology and tools are evolving quickly, writing about generative AI and legal education has felt as pointless as erecting a house on a fault line during a violent earthquake. A spring 2024 idea for an article will almost certainly be dated—and possibly obsolete—by the piece's 2025 publication date. But even when the landscape is shifting beneath her feet, a creative, determined designer can build, hoping to manufacture something robust enough to endure the relentless impact of an inescapable, disruptive force.

So, enticed by Dr. Kirsten Davis' invitation,[4] I am stepping into the generative AI "parlor," a room recently constructed but already undergoing renovation, due to

---

[2] Rebekah Hanley, *Writing in a New Age: Lean on Generative AI but Hang onto Your Skills and Style*, OR. ST. BAR BULL., Apr. 2024, at 17, 19.

[3] John Bliss, *Teaching Law in the Age of Generative AI*, 64 JURIMETRICS 111, 137 (2024) ("[T]he time has come to begin incorporating generative AI in law teaching.").

[4] Davis, *supra* note 1, at 2–3. Dr. Davis' piece includes an expansive collection of theoretical and practical questions raised by generative AI that need scholarly attention, and it explains that legal writing faculty ought to lead this work. *See id.* Dr. Davis emphasized this point in her conclusion: "The state of generative AI is constantly changing. While that might be a deterrent for some to begin their inquiry . . . , scholars in legal writing do not have the luxury of waiting." *Id.* at 22.

rapid change, and extension, to accommodate a swelling crowd. The rapid change presents serious challenges, but the crowd is something to celebrate: we need more voices—and everyone's ears—in this conversation. This Article builds atop Dr. Davis' foundation, updating, refining, and expanding upon her pedagogy-focused points.

Generative AI is a "revolutionary innovation" likely to fundamentally alter the legal writing field.[5] This destabilizing paradigm shift introduces a new lens through which to examine legal writing, including legal writing pedagogy.[6] Used well, generative AI can help law students write, saving them time, enhancing their work product quality, or both. But that new reality is accompanied by thorny questions, including the extent to which we can continue to expect tried and true practices to facilitate the development of foundational skills. In time, our discipline will better understand how best to nurture skill development among novices during the generative AI era; for now, we can share only hypotheses, early experiments, and preliminary findings.

Also, with respect to law school teaching and learning, this moment calls for much more than reform in legal writing instruction: generative AI represents an exciting next chapter for legal education as a whole.[7] All law school faculty and leaders should be clamoring to bring another seat into this parlor.[8] Together, we should be capitalizing on this disruptive technology, using its existence as a reason to interrogate longstanding policies and practices that are overdue for critical attention.[9]

---

[5] *Id.* at 5.

[6] *Id.* at 19–20 ("[T]he arrival of generative AI creates urgency for scholars to explore the teaching and evaluation of legal writing in law school. First, law schools may need to adapt legal writing learning outcomes and teaching methods. . . . Second, legal writing assessments will likely need to change in response to generative AI, and the field will need research and experimentation to this end.").

[7] Dr. Davis agrees that scholars outside of legal writing are engaged in work in this area. *See id.* at 5 n.17. She clarifies that her "argument here is that generative AI in the context of legal writing and legal education presents . . . issues that legal writing scholars are in a unique position to address." *Id.* I agree. But this observation carries a risk: that institutions expect legal writing faculty (who tend to have heavy teaching responsibilities, low pay, and minimal job security compared to their peers) to deliver quick answers to urgent, high-stakes, and wide-reaching questions in a rapidly changing environment. *See also* Rachelle Holmes Perkins, *AI Now*, 97 TEMPLE L. REV. (forthcoming 2025) (manuscript at 14) (on file with *Temple Law Review*) (arguing that while "[m]ost legal research and writing professors and law librarians have invested considerable time in learning about . . . Gen-AI," along with "[m]any clinical faculty" and "[a] handful of other faculty," that small subset of each law school's full-time faculty "should not . . . bear this burden on their own").

[8] Perkins, *supra* note 7, at 13 ("[T]he lack of momentum for Gen-AI competence can be viewed as a widespread failure of the legal academy").

[9] Indeed, Professor Perkins has argued that the anticipated impact of generative AI on the practice of law creates an urgent, inescapable mandate for all law faculty: "[L]aw professors should be diligently exploring how this groundbreaking technology does and should affect their teaching, scholarship, and governance duties." *Id.* at 12.

Law school anti-collaboration and anti-"plagiarism" academic integrity policies, for example, must be reconsidered and potentially reworded in light of the proliferation of generative AI tools,[10] which have been described as a kind of "co-intelligence" by Professor Ethan Mollick.[11] Those policy updates will help eliminate confusion about the permitted use of LLMs and thus will advance fairness, both real and perceived. That's the low hanging fruit, tasks that I assume almost all institutions will have addressed by the time this Article becomes available.

Indeed, by as early as February 2024, many law schools had recognized the need to do something in response to the rise of generative AI.[12] This Article is intended to nudge more schools to move farther, faster, and with enthusiasm—to stop regarding generative AI as a threat and start appreciating it as a gift. Because of LLMs, faculty, who are accustomed to being and feeling expert, now resemble their novice law students, scrambling to adjust, using new tools in unfamiliar territory. Faculty would do well to suppress their anxiety and lean into their curiosity, mimicking what we have long suggested our students do. Many students are naturally curious about—or even inspired by—generative AI and genuinely regard it as a tool that boosts their learning;[13] faculty should use students' enthusiastic engagement with this technology to help supercharge, not shortcut, student understanding and growth. With a growth mindset and optimism, we can use this technology to reinvigorate legal education.

This Article aims to emphasize that this large project is one in which the entire community must participate. I take the intent of Dr. Davis' piece to be empowering legal writing faculty. She persuasively makes the case that faculty who specialize in legal communication pedagogy are ideally situated to lead the research and curricular reform that generative AI requires.[14] She is correct that faculty who specialize in legal communication pedagogy have the expertise necessary to thoughtfully respond to the opportunities and challenges that generative AI introduces. I fear, however, that law school leaders may conveniently misinterpret Dr. Davis' message, using it to saddle their lawyering skills faculty with sole responsibility for resolving the many complicated issues that generative AI presents. It is one thing to recognize and respect the expertise of legal writing professors; it is quite another to abdicate, shifting critical, complex, time consuming, and high stakes

[10] *See generally* JOSÉ ANTONIO BOWEN & C. EDWARD WATSON, TEACHING WITH AI: A PRACTICAL GUIDE TO A NEW ERA OF HUMAN LEARNING 132–46 (2024).

[11] ETHAN MOLLICK, CO-INTELLIGENCE: LIVING AND WORKING WITH AI xix–xx (2024) ("[Generative AI is] a generally applicable technology that can boost our intelligence. Now humans have access to a tool that can emulate how we think and write, acting as a co-intelligence to improve (or replace) our work.").

[12] *See* AM. BAR ASS'N, AI AND LEGAL EDUCATION SURVEY RESULTS 2024, at 1, 3, 9–13 (2024), https://www.americanbar.org/content/dam/aba/administrative/office_president/task-force-on-law-and-artificial-intelligence/2024-ai-legal-ed-survey.pdf.

[13] BOWEN & WATSON, *supra* note 10, at 110 ("73% of students . . . aged 14–22 in June 2023[] said that AI helped them 'better understand material.'" (citing a Quizlet survey)).

[14] Davis, *supra* note 1, at 4.

work to a small subset of the faculty.[15]

In Part I, this Article explains that the use of generative AI can be consistent with core academic objectives and existing norms, meaning that it need not be labeled "cheating" or disparaged as "plagiarism." Part II provides key context via a summary of relevant aspects of the history of legal education and a survey of current sources of stress on the legal academy. Finally, in Part III, this Article offers concrete ideas to help move the curricular reform conversation forward despite unavoidable uncertainty.[16] Some of those ideas implicate relatively modest, granular shifts (like revisiting the method of assessing student learning in a particular course), while others would require material institutional and cultural adjustments (like eliminating letter grades and the curve).

In short, the generative AI era is revolutionary. Legal education's response should match the moment.

## *II. A BLESSING, NOT A CURSE: GENERATIVE AI MAY BE DESTABILIZING, BUT IT'S NOT A THREAT*

If law schools are serious about preparing students to be practice ready upon graduation,[17] schools must introduce students to the tools that lawyers use in everyday practice. And LLMs are making waves in the legal profession. That is because, despite their flaws, LLMs can be helpful lawyering tools, capable of generating first drafts, summarizing, revising, and more. They can search and synthesize large quantities of information quickly. LLMs do not experience fatigue or distraction like humans do. Plus, LLMs can effectively multitask, while humans cannot. The technology has been proven to help lawyers work materially faster, without compromising quality.[18] Indeed, LLM use can actually *improve* work product quality, boosting quality most dramatically for the least proficient legal professionals.[19] By enhancing lawyers' productivity and strengthening their work product, LLMs may offer future clients, including those with relatively modest

[15] *See, generally*, Perkins, *supra* note 7, at 14–16, 36–42.

[16] We do not know what the future holds or how fast that future will arrive. At the end of his 2024 book about generative AI, Professor Mollick describes four possible futures: (1) "the [unlikely] possibility that AI has already reached its limits;" (2) the possibility that AI's exponential growth will "slow[], increasing maybe 10 percent, or 20 percent, a year"; (3) continued exponential acceleration; and (4) AI "[s]uperintelligence" and the end of "human supremacy." MOLLICK, *supra* note 11, at 194, 199, 203, 207.

[17] They should be. Accreditation standards require law schools to "maintain a rigorous program of education that prepares its students, upon graduation, for admission to the bar and for effective, ethical, and responsible participation as members of the legal profession." STANDARDS AND RULES OF PROC. FOR APPROVAL OF L. SCHS. 2023-2024, § 301(a) (AM. BAR ASS'N 2023).

[18] *See* Jonathan H. Choi et al., *Lawyering in the Age of Artificial Intelligence*, 109 MINN. L. REV. 147, 170, 208 (2024).

[19] *Id.*; BOWEN & WATSON, *supra* note 10, at 29.

budgets, the ability to purchase more and better legal representation if they hire lawyers who capitalize on the power of LLMs.[20] There is hope (and doubt) that LLMs will chip away at the justice gap and boost lawyer satisfaction and professional longevity. Time will settle those debates.

But already there is little question that, because LLMs boost efficiency, they will reshape how lawyers practice law. Experts—including scholars, judges, and bar associations—are coalescing around the consensus that appropriate reliance on this technology is consistent with lawyers' ethical responsibilities.[21] Moreover, scholars are concluding that those ethical duties not only *permit* but soon *will require* use of the technology: a lawyer may not ethically charge a client for hours of slow labor when other competent lawyers would leverage technology to complete comparable work in a fraction of that time.[22] "Lawyers will be expected to use generative AI tools—or whatever they will be called in the future—as part of the modern, competent practice of law."[23] For that reason, many predict that LLMs will precipitate the end of the billable hour

---

[20] *See* Colleen V. Chien & Miriam Kim, *Generative AI and Legal Aid: Results from a Field Study and 100 Use Cases to Bridge the Access to Justice Gap*, 57 LOYOLA L.A. L. REV. 903, 911–12, 915–17 (2025).

[21] *See, e.g.*, Andrew M. Perlman, *The Legal Ethics of Generative AI*, 57 SUFFOLK L. REV. 345, 346 (2024) ("[T]he Model Rules of Professional Conduct . . . do not pose a regulatory barrier to lawyers' careful use of generative AI. . . . [L]awyers can use these tools in many contexts if they employ appropriate safeguards and procedures. . . . [T]he careful use of generative AI is . . . consistent with a lawyers' ethical duties . . . ."); Mata v. Avianca, 678 F. Supp. 3d 443, 448 (S.D.N.Y. 2023) ("[T]here is nothing inherently improper about using a reliable artificial intelligence tool for assistance."). Florida Bar Bd. Rev. Comm. on Pro. Ethics, Advisory Ethics Op. 24-1 (2024) ("[Lawyers] may ethically utilize generative AI."). Even law firms that are delaying adoption of generative AI tools for producing written work on behalf of clients are using the technology in other ways. *See, e.g.*, Univ. of Portland et al., *AI's Transformation of the World of Work: Employee Upskilling, Development Are Key as Technology Gains Ground – Table of Experts*, PORTLAND BUS. J. (June 28, 2024), https://www.bizjournals.com/portland/news/2024/06/28/ai-s-transformation-of-the-world-of-work-employee.html ("[W]e use [generative AI] for some administrative functions, marketing, human resources, written procedures, but we're not using it currently for any legal writing or discovery. We will use it for a meeting we want to record and make a summary. But then you want to think about privacy concerns. If you're having a meeting with a client, . . . what happens with that recording? . . . . Lawyers are trying to learn more about AI because our clients are using AI. If you aren't aware of what your clients are doing, and what's happening in business innovation, that's going to limit your effectiveness as an advocate.").

[22] Perlman, *supra* note 21, at 360 ("[W]e may eventually move away from saying that lawyers are ethically permitted to use it, to saying that lawyers are ethically required to do so[;] . . . just as we would question the competence of a lawyer who pulls out a typewriter to prepare a client document, we will at some point question the competence of a lawyer who begins drafting legal documents by opening a word processing program to a blank screen and typing from scratch"); *See* MODEL RULES OF PRO. CONDUCT r. 1.5(a) (AM. BAR ASS'N 2020).

[23] Perlman, *supra* note 21, at 360.

as the predominant fee model in the legal profession.[24]

### A. Creating with Generative AI Can Serve Academic Objectives

It is possible for academics to reject generative AI on principle—to dismiss technological "advancements" as self-interested tech industry hype and insist that longstanding law school practices are the only ones consistent with deep learning and academic integrity. But rejecting generative AI would be impractical; students are going to use the technology regardless of whether law schools permit or teach its use:

> Most students seem to recognize the ethical considerations and risks of using AI, but two recent peer-reviewed studies found that most students said they will continue to use AI anyway. [And] 51% of students said that they will continue to use AI even if their instructors or institutions prohibit it. A [] follow-up . . . saw that number jump to 75% . . . A US study found that 75% of students believe using AI is wrong but still do it[; meanwhile,] 42% of faculty don't believe that their students are using AI.[25]

Thus, prohibiting the use of generative AI makes faculty appear out of touch with contemporary times, which can result in lost credibility and efficacy. They must either ignore generative AI's inevitable use or police it using detectors, tools that are notoriously unfair

---

[24] *See, e.g.*, Staci Zaretsky, *Is It Time to Officially Say Bye-Bye to the Billable Hour Thanks to AI?* Above the L. (Sept. 27, 2023), https://abovethelaw.com/2023/09/is-it-time-to-officially-say-bye-bye-to-the-billable-hour-thanks-to-ai/ ("In my mind, it's not a question of whether generative AI will have an impact on law firm reliance on the billable hour, it's a question of when and where." (quoting Jae Um, former BigLaw pricing strategy director)); Ken Crutchfield, *Does AI Signal the End of the Billable Hour?*, Above the L. (Jan. 23, 2024), https://abovethelaw.com/2024/01/does-ai-signal-the-end-of-the-billable-hour/ ("As AI creates more automation for tasks that were less predictable, fixed fees will become more common."); Perlman, *supra* note 21, at 354 ("[I]f generative AI dramatically reduces the time it takes for lawyers to provide some kinds of services, we are likely to see a greater shift towards alternative fee arrangements and an increased focus on the value of a lawyer's services rather than the time spent on a matter"); *see also* Nancy B. Rapoport & Joseph R. Tiano, Jr., *Fighting the Hypothetical: Why Law Firms Should Rethink the Billable Hour in the Generative AI Era* (December 31, 2024), 20 WASH. J. L. TECH. & ARTS 41, 94 (2025) ("Although the billable hour model faces pressure, it continues to show remarkable resilience. Firms are beginning to explore hybrid approaches that combine flat fees for AI-assisted work, higher hourly rates for high-value judgment-focused work, and value-based pricing for certain commoditized matters.").

[25] BOWEN & WATSON, *supra* note 10, at 110 (internal citations omitted); *see also* MOLLICK, *supra* note 11, at 143–44 ("People are streamlining tasks . . . and automating time-consuming and tedious parts of their jobs. But . . . they are keeping [that] secret . . . [because they] don't want to get in trouble.").

due to high rates of both false positives and false negatives.[26]

Moreover, rejecting generative AI would also be short-sighted and, ultimately, irresponsible. That is because, used thoughtfully, LLMs can effectively propel student progress with skill development and substantive mastery.

For instance, in the context of a writing project designed to help students develop a sound process and final product, an exchange with an LLM thought partner can boost motivation, as Professor Mollick illustrated in his recent book.[27] And generative AI may help students overcome the common issue of early self-censorship that interferes with productive brainstorming.

> LLMs . . . don't have human inhibition. Since they don't care how you might feel about their idea, they're able to go where no human has gone before with ease and abandon. Because GPTs generate without inhibition, they're a unique tool for idea generation. . . . AI is going to make us all more creative.[28]

If an LLM helps a student overcome a common hurdle—like inertia or writer's block—while working on writing at home, the student can reallocate her time, spending more time developing and refining arguments and less time staring at a blank page. And that's not necessarily a harmful shortcut. Not all struggle yields dividends. Rather, the reallocation of time could ultimately help the student extend the written analysis and understand nuanced material more deeply.

Concerns exist that students will become anchored to the possibilities that generative AI suggests, losing sight of other possible, strong affirmative and counter arguments. But that risk can be framed as a reason to teach the technology: with guidance, students can understand that generative AI works well as a starting point or icebreaker, not as a definitive, comprehensive source.

---

[26] BOWEN & WATSON, *supra* note 10, at 15.

[27] *See* MOLLICK, *supra* note 11, at 49. Mollick asked generative AI to articulate what would be lost if he declined to write his book *Co-Intelligence*: "I was thinking about writing a book about generative AI, but I am very busy . . . . Can you reframe my failure to write a book as a loss rather than a default option? Make the framing vivid." *Id.* The generative AI response was "persuasive and motivational." *Id.*

I asked Microsoft CoPilot for similar encouragement, and it obliged. It offered, in part, that by writing this piece I had "the chance to be a pioneer in integrating generative AI into legal education," important given that "such technology is poised to become a fundamental aspect of future legal practices"; that my ideas could help legal education avoid stagnation by catalyzing important progress; and that inaction "represent[s] a loss when it prevents growth, innovation, and adaptation to emerging technologies." Some may view CoPilot's emphatic conclusion as a bit corny: "**Boldness** has genius, power, and magic in it!" Regardless, this experiment helps demonstrate how a student might treat generative AI as a personal cheerleader, helping the student find motivation, for instance, to complete an optional assignment, try out for a law journal, or sign up for a moot court competition. Microsoft, COPILOT (Mar. 3, 2025), https://copilot.microsoft.com/ (Large Language Model).

[28] BOWEN & WATSON, *supra* note 10, at 62.

Moreover, concerns about inappropriate deference to technology and skill underdevelopment may not pan out, and efficiency might actually fuel (rather than frustrate) learning:

> [E]ducators are finding that these generative AI tools make our students far more skilled and efficient writers. They are also finding that, where producing essays was once seen as essential to helping students gain mastery in critical thinking and analytical and writing skills, the artificial intelligence provides students equal, and even better, opportunities to engage with a topic, gather and analyze information, and express their own ideas and arguments.[29]

Thus, it is premature to dismiss LLMs as being fundamentally inconsistent with learning objectives related to analysis and expression. LLMs may instead be catalysts that speed up comprehension and academic progress.

To illustrate, consider using LLMs during a class meeting to quickly generate multiple drafts of a contract provision, rule, or other short piece of writing. That could jump-start conversations about the relative strengths and weaknesses of both the LLMs as tools and the substance of the drafts they generated..[30] Through lessons like that, LLMs could facilitate the ongoing, gradual shift from theory-heavy lecture and Socratic dialogue (with students focused on the professor, a "sage on the stage") to more practice focused, experiential learning (with students assisted by a faculty "guide on the side").[31]

One LLM challenge that can, somewhat paradoxically, boost student learning is the technology's tendency to introduce errors, which are sometimes called "hallucinations." Students need to critically evaluate everything a generative AI platform composes. Even though generative AI's perfectly polished prose tends to tempt students to trust it, students need to interrogate, not defer. When examining generative AI output, students must think deeply: does this make sense? What authorities support this? Are those authorities mandatory? What additional authorities exist, and what do they say? Using generative AI appropriately *requires* the same kind of critical thinking that law schools have long taught.

Perhaps most importantly, LLMs could help level the academic playing field, providing more equitable opportunities for students who struggle not with complex legal ideas but rather with foundational writing and editing skills (e.g., due to being

---

[29] SALMAN KHAN, BRAVE NEW WORDS: HOW AI WILL REVOLUTIONIZE EDUCATION (AND WHY THAT'S A GOOD THING) 33 (2024).

[30] *See* Bliss, *supra* note 3, at 159 ("[E]ducational literature . . . suggests that teaching with generative AI can lead to more sophisticated class discussions covering more advanced material.").

[31] Ken Corish, *"From Sage on the Stage to Guide on the Side: Socratic Teaching and AI",* SWGFL (Mar. 7, 2024), https://swgfl.org.uk/magazine/from-sage-on-the-stage-to-guide-on-the-side-socratic-teaching-and-ai/.

an English language learner, experiencing a learning difference,[32] or being the product of underfunded schools).[33]

None of these academic benefits is limited to *legal writing* classrooms and assignments. Generative AI can support both the development of skills in legal writing courses and also the mastery of substantive knowledge in casebook courses. "When ChatGPT is used effectively, the emerging educational studies suggest that it can enhance knowledge retention and the understanding of complex concepts."[34] For example, students can use generative AI to help them organize and synthesize their reading and class notes; they can also use the technology to critique their responses to sample test questions or to generate additional sample questions, thereby reinforcing their learning.

In addition, experimenting with the impressive (but imperfect) technology can boost student morale[35] and fuel student curiosity, supporting meaningful research and dialogue exploring provocative questions that students are passionate about. Those topics include the bias baked into LLMs (that can be replicated and perpetuated through inappropriate deference); the environmental impacts of generative AI use (that might be mitigated through responsible use); the application of copyright and fair use doctrines to LLM training data and LLM outputs; and the industry's reported reliance on exploitative labor practices in refining its generative AI products. In sum, while legal professionals use generative AI to produce work faster, law students can use the tool to push their academic inquiries farther:

> The most successful students will be those who use AI to help make conceptual connections for developing ideas. Students who learn to use AI ethically and productively may learn not only at an exponentially higher rate than others but also in a way that allows them to remain competitive throughout their careers. They will have a deeper understanding of the given subject matter, because they will know how to get their questions answered. Rather than atrophying, their curiosity muscle will be strengthened.[36]

A tool with the potential to boost student engagement is one that deserves law faculty's serious attention.

The suggestion that law student use of generative AI can facilitate—not

---

[32] Bliss, *supra* note 3, at 133 ("This technology could be especially beneficial for neurodiverse students and those who lack fluency in the language of instruction").

[33] *But see* BOWEN & WATSON, *supra* note 10, at 43 (noting that *without deliberate teaching of AI literacy*, "AI . . . looks likely to amplify existing digital inequities: Male, non-first generation, White or Asian students are already more likely to be familiar with or have used AI") (internal citation omitted).

[34] Bliss, *supra* note 3, at 133–34; Almost three-quarters of students between the ages of 14 and 22, surveyed in June 2023, reported that using AI boosted their ability to "better understand material." BOWEN & WATSON, *supra* note 10, at 110 (quoting a Quizlet survey).

[35] *See* Choi et al., *supra* note 18, at 6 (using generative AI improves lawyer satisfaction).

[36] KHAN, *supra* note 29, at 5–6.

undermine—academic progress and professional preparation is controversial. NYU Law's Jake Karr and Professor Jason Schultz argue that using generative AI in law school clinics is fundamentally at odds with the pedagogical goals of clinical legal education.[37] They acknowledge that "legal employers are racing to embrace GenAI"[38] and that "technology vendors and platform providers are attempting to integrate GenAI into everything, including legal research, writing, and practice tools, and directly marketing them to students."[39] Those realities underscore that turning out a "practice-ready" law school graduate may require law schools to weave generative AI into some part of the law school curriculum. But Karr and Schultz nevertheless conclude that law schools should wait until generative AI's pedagogical efficacy is well established before integrating the tool into law school clinics:

> Law schools are not meant to train students to imitate lawyers—they are meant to train students to become lawyers. So while GenAI tools may be able to help students imitate some forms of human lawyering, it is unlikely that they can serve the educational goals of law schools and especially those of law school clinics.[40]

Put another way, already expert lawyers may be able to leverage LLMs to generate quality work with increased efficiency, but law school clinicians can't yet know whether novice students can metamorphosize into competent lawyers while relying on LLMs.

Karr and Shultz are correct that law school leaders must make choices today, in a moment of great uncertainty. Will generative AI use affect law students' learning? Maybe,[41] but it will be a while before we are certain whether and how, let alone how to minimize any of its negative effects. Meanwhile, we can try to extrapolate from studies about whether other technologies have affected skill acquisition: calculators and basic math skills;[42] spell check, autocorrect, and

---

[37] Jake Karr & Jason Schultz, *The Legal Imitation Game: Generative AI's Incompatibility with Clinical Legal Education,* 92 FORDHAM L. REV. 1867, 1869 (2024) ("[A]lthough GenAI does present some de minimis learning opportunities for practice readiness, it is largely incompatible with justice readiness and client-centered lawyering, especially when considering the serious concerns that the development, deployment, and use of GenAI raise for those clinical programs with public-interest missions.").

[38] *Id.* at 1868.

[39] *Id.* at 1868–69.

[40] *Id.* at 1886.

[41] *See* Hamsa Bastani et al., Generative AI Can Harm Learning (July 15, 2024) (unpublished) (available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4895486); KHAN, *supra* note 29, at 145–47.

[42] Studies say no: "Research conducted in response to this found little difference in performance tests whether students used calculators or not. An earlier US study had found the same: the calculator had no positive or negative effects on the attainment of basic maths skills." Jeanne Carroll, *Weapons of Maths Destruction: Are Calculators Killing Our Ability to*

spelling;[43] dictation software and typing;[44] online databases and legal research;[45] and Google and library skills.[46] That research, and its mixed results, may or may not be instructive in this context.

Ultimately, as technology develops, curricular shifts occur. Educators must make hard choices. They can only squeeze so much content into a course and so many courses into a year or degree. Moreover, educators must honor institutional budgetary constraints and priorities and work with the materials made available to them. Finally, they must consider the expectations of the market—including both prospective students and employers. Understanding that educators have adjusted to new technology time and time again, we can responsibly experiment with generative AI to help students grasp both its potential utility and its risks.

### B. The Elephant in the Room: Creating with Generative AI's Support Should Not Be "Cheating," and It's Definitely Not "Plagiarism"

As generative AI tools improve and become more affordable, familiar, and ubiquitous, students are increasingly going to use them for academic purposes. Specifically, students might use an LLM to transcribe lectures, synthesize notes,

---

*Work it Out in Our Head?*, THE CONVERSATION (AUG. 9, 2015, 4:34 PM), https://theconversation.com/weapons-of-maths-destruction-are-calculators-killing-our-ability-to-work-it-out-in-our-head-44900. Indeed, teachers see calculators as a tool for deepening students' math skills. Kelly Baum-Sehon, *Using Calculators to Deepen Students' Engagement with Math*, EDUTOPIA (Feb. 18, 2020), https://www.edutopia.org/article/using-calculators-deepen-students-engagement-math ("Calculators can be vital tools for encouraging students' mathematical curiosity and conceptual understanding.").

[43] Studies and experts say both yes and no. *Compare* Thessaly La Force, *Has Spell-Check Ruined Us?*, THE NEW YORKER (Sept. 4, 2009), https://www.newyorker.com/books/page-turner/has-spell-check-ruined-us, *and Poor Spelling of 'Auto-Correct Generation' Revealed*, BBC (May 22, 2012), https://www.bbc.com/news/education-18158665, *with* Rebecca Greenfield, *Auto-Correct Is Not Ruining Spelling*, THE ATLANTIC (May 22, 2012), https://www.theatlantic.com/technology/archive/2012/05/auto-correct-not-ruining-spelling/327785/.

[44] Not likely. Typing abilities probably declined because schools stopped teaching touch typing. Anne Trubek, *Out of Touch with Typing*, MIT TECH. REV. (Aug. 15, 2011), https://www.technologyreview.com/2011/08/15/22130/out-of-touch-with-typing/.

[45] Yes. Ellie Margolis & Kristen E. Murray, *Say Goodbye to the Books: Information Literacy as the New Legal Research Paradigm*, 38 U. DAYTON L. REV. 117, 119; 156 (2012). ("[T]o transition to a research environment that is primarily electronic, and a new generation of law students who are digital natives, we need to rethink how we teach and assess legal research. . . . Today's students need less instruction in how to *find* the law and more instruction in *assessing and evaluating* the sources they find.").

[46] Yes. Sunanda Creagh, *US Study Shows Google has Changed the Way Students Research – and Not for the Better,* THE CONVERSATION (Aug. 28, 2011, 4:55 PM), https://theconversation.com/us-study-shows-google-has-changed-the-way-students-research-and-not-for-the-better-3087.

summarize readings, explain complex concepts in plain language, illustrate abstract ideas with concrete examples, generate flashcards or sample test questions, or organize information. A student without a reliable study partner might use an LLM as a stand-in.[47] All of those activities could support student learning and would be consistent with most academic integrity policies. The decision to turn to generative AI in these ways would also be consistent with how lawyers are beginning to lean on it in practice.

Students are also likely to turn to an LLM at some point in the process of creating written work product for submission. While crafting a document or completing a written test, students might use an LLM to help brainstorm potential counterarguments, generate ideas that will add depth to a thin analogical argument, formalize an otherwise conversational tone, or tighten or polish prose, again, just like lawyers are now doing in practice. This kind of LLM-reliance might require them to log on to a general purpose or law specific generative AI platform, including one they pay to access via their law school tuition. Or they might rely on a generative AI tool that has been integrated into a mainstream word processing program, one they would have to take extra steps to *avoid* using.

None of that conduct constitutes "cheating"—unless faculty enact rules that deem it so.[48] Dr. Davis thoughtfully asks why faculty would decide to do that: "For what reasons should we consider [generative AI use] cheating?"[49] As educational entrepreneur Salman Khan has observed, "cheating is complex, contradictory, and sometimes as hard to define as it is to prevent."[50] Arguable examples he mentions include "bouncing ideas" off others, using Grammarly to enhance clarity by "rephras[ing] entire paragraphs," and requesting—but then rejecting—feedback from an LLM.[51]

In my view, we should be hesitant to interrupt or frustrate productive student learning. After all, "[i]f students are collaborating with AI to produce better work,

---

[47] BOWEN & WATSON, *supra* note 10, at 77 ("Assistance, interaction, and collaboration are the essential ingredients that enable the learner to reach [the learning and/or achievement] zone. Traditionally, peers or teachers have been this helper, but similarly, AI is becoming a new, powerful partner, in both the classroom and the real world, that can accelerate accomplishment and achievement. AI can help humans clarify their thoughts, explore new ideas, increase divergent thinking, and perhaps even become more creative. The potential for more creative humans and better thinking is the promise of this new partnership: it is in the iteration, the reflection, the back and forth, and the refined questions that thinking and creativity happen.").

[48] "Cheating in law school involves *dishonest actions* that a person takes *to gain an unfair advantage*. It may manifest in various forms, such as using unauthorized resources during examinations, sharing answers with peers, or submitting work as your own that was in fact done by *someone* else." APRIL G. DAWSON, ARTIFICIAL INTELLIGENCE & ACADEMIC INTEGRITY 32 (2023) (emphasis added).

[49] Davis, *supra* note 1, at 18.

[50] KHAN, *supra* note 29, at 30.

[51] *Id.* at 30–31.

they may be on to something. What we call cheating, businesses see as innovation."[52]

Deeming collaboration with an LLM "cheating" is counterproductive, arbitrary, and unrealistic. Any such rule would be extremely hard to fairly and accurately enforce. That is because detection tools are unreliable,[53] and as the technology becomes ubiquitous—woven into trusted, mainstream platforms for word processing, legal research, and more—LLM-prohibition lines become challenging to draw, maintain, comply with, or defend. Telling students that they may not use any generative AI for any purpose is over-inclusive. Telling them they may use only some generative AI, or that they may use the technology but only in some classes or for certain purposes, is confusing.

Further, prohibitions will inevitably be violated. Writing precise, thorough, concise, organized legal analysis is challenging and time consuming; people will embrace tools that ease their journey to the finish line.[54] It would be better to authorize generative AI reliance than to call it cheating and then expend energy trying to explain, justify, and enforce that rule with an even hand.

Nor are the uses of generative AI described in the first two paragraphs of this subsection "plagiarism," which is typically defined as using "someone else's ideas or words without attribution."[55] Generative AI is not "*someone else*." It is incapable of thinking of "ideas," and "its words" emerge from token-driven prediction, not a

---

[52] BOWEN & WATSON, *supra* note 10, at 5, 132.

[53] *See, e.g.*, *id.* at 111–115 (noting that the "accuracy of AI detectors varies considerably," the "best AI detectors . . . make mistakes" when they estimate "how much AI-generated content there might be," and students can deploy "many strategies . . . that decrease the accuracy of AI detectors").

[54] It's not only pointless but also damaging to ignore this technology. As one law firm leader recently noted, "If you don't realize your employees are using AI, then you're in denial. It behooves all of us to get in front of it and come up with policies about how they can use it, how to train them." Univ. of Portland et al., *supra* note 21.

[55] Andrew M. Carter, *The Case for Plagiarism*, 9 U.C. IRVINE L. REV. 531, 552 (2019); Rebekah Hanley, *Yes, We Can: Embrace* The Case for Plagiarism *to Enhance Access to Justice*, 5 STETSON L. REV. F. 2, 1–2 (2022). see also Dawson, *supra* note 48, at 31-32 ("Plagiarism involves using *someone else's* work or ideas without proper attribution . . .; [it] undermines [the] learning process . . . [and] disrespects the intellectual labor that *someone else* put into their original work[,] . . . infring[ing] on their intellectual property rights.") (emphasis added).

One of the many questions Dr. Davis raises in her piece asks, "Should we reconsider the definitions of plagiarism now that generative AI has arrived?" Davis, *supra* note 1, at 15. Stated differently, "Should the use of generative AI on writing assignments always constitute . . . plagiarism? Does plagiarism itself need to be better defined or redefined?" *Id.* at 18.

I don't think so. When unmanned aircraft systems, or drones, were introduced, we did not change the definition of airplane to facilitate drone regulation; instead, we created a new set of rules regulating drone use. Here, if unauthorized or uncredited reliance on a LLM is perceived as a problem, that should be explained in terms that are tailored for the situation, not shoe-horned into an existing category of academic dishonesty.

human-like writing process.[56] It can't take responsibility for its assertions. A *reader* can't use a writer's citation disclosing generative AI reliance to easily confirm the accuracy or context of an LLM-generated passage, because the LLM's prose is not memorialized through publication. Moreover, it is the user—here, the academic writer—who prompts the generative AI to produce sentences. The generative AI is a tool; it co-creates, but with and only because of the human writer at the controls.[57] Thus, generative AI requires "us to rethink our assumptions about authorship, originality, creativity, and eventually plagiarism."[58] And as "[h]ybrid human-AI writing . . . become[s] normal[,] . . . [h]istorical definitions of plagiarism no longer apply."[59] So we can alter the definition of plagiarism, or we can acknowledge that relying on an LLM is something other than stealing another writer's expression or ideas. But simply labeling unauthorized LLM use "plagiarism"—while expedient—is intellectually dishonest.

Many law school faculty members undoubtedly will begin using generative AI themselves to achieve greater efficiency in their service and teaching tasks. Indeed, many already have. That use can include expediting email correspondence, writing committee reports, updating course materials, drafting novel fact patterns for hypotheticals, creating quizzes, and even providing feedback on student writing assignments. Some faculty may begin using it to support their own scholarly work. As faculty move in this direction, they are likely to feel hypocritical insisting that students refrain from using the same technology.

With experimentation, we will determine how students can use generative AI and still learn—maybe even more than they did without it. But to ensure fairness and prepare them for the future of practice, we need to teach them how to convert generative AI's potential into power. That will require meaningful, challenging, but important modifications to the law school curriculum.

## *III. LEGAL EDUCATION: A SLOW EVOLVER STARING DOWN A POTENTIAL EXISTENTIAL CRISIS*[60]

Here's an optimistic view of the possible impact of generative AI on law schools. The generative AI paradigm shift is exactly what legal education needs to survive a looming crisis: the intersection of skyrocketing tuition and the approaching higher education demographic cliff.

---

[56] Ethan Mollick, *Thinking Like an AI*, ONE USEFUL THING (Oct. 20, 2024), https://www.oneusefulthing.org/p/thinking-like-an-ai.

[57] Ethan Mollick & Lilach Mollick, *Instructors as Innovators: A Future-Focused Approach to New AI Learning Opportunities, with Prompts* 25 (Apr. 21, 2024) (unpublished manuscript) (available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4802463).

[58] BOWEN & WATSON, *supra* note 10, at 144.

[59] *Id.* (citing Sarah Elaine Eaton's proposed "tenets of post-plagiarism").

[60] This is intentionally exaggerated for dramatic effect. It may not be a "crisis" at all, let alone an "existential" one. But if calling out a crisis spurs action and conquers our collective paralysis, let's call it a crisis and make sure we do not waste it.

Legal education has resisted healthy change for too long. The COVID-19 pandemic's momentary disruption of the status quo precipitated drastic innovations by necessity: professors who ban laptops in class taught via Zoom; closed book examinations dependent on memorization and tolerant of thin analysis became take home tests; and grades became pass/fail. But while the pandemic's "upheaval … provided an unprecedented opportunity to reevaluate legal education,"[61] educational methods have largely returned to pre-pandemic norms.[62]

A very short history of legal education is instructive. Law schools were nonexistent in the colonial era; an aspiring lawyer learned the trade through an apprenticeship instead. Law schools began to appear in the mid-1800s, but as of 1900, at least four out of every five lawyers still had no formal higher education at all, and some lawyers had not even completed high school. Opportunities for formal legal education ballooned in the late 1800s and early 1900s; law schools proliferated, and most states began mandating law school graduation for bar admission candidates.[63]

During the late 1800s, law faculty used "the Dwight method, a combination of lecture, recitation, and drill . . . . Students prepared for class by reading "treatises" . . . [and] were then tested, orally and in front of their peers, . . . recit[ing] what they had read and memorized. They learned legal practice skills later, during apprenticeships or actual practice."[64] Around the same time, Harvard Law School's Dean Langdell is said to have "revolutionized" legal education, and the "reforms" stuck.[65] He expanded law school from one to three years, requiring that students pass final examinations before progressing to the next year; he swapped out treatises for the casebooks still commonly used today; and, most famously, he substituted Socratic dialogue for lectures.[66] His methods were not popular at first, but in time they took hold, spread throughout the academy, and endured.[67] Indeed, a modified version of the Socratic method championed by Langdell remains the default method of law school teaching a century and a half after it was first introduced.[68] That is, at least in part, because it is cost effective: using Socratic dialogue, often through cold calling,

---

[61] Pam R. Jenoff, *Making Lawyers After COVID: Skills, Professionalism and Preparedness in a Post-Pandemic World*, 57 CREIGHTON L. REV. 21, 35–36 (2023).

[62] The exception to this is in the delivery of online instruction. Law schools had experimented with distance learning as early as 2015, but the ABA limited online education until the pandemic emergency pushed all legal education online in the spring of 2020. Then, in September of 2021, the ABA approved the first fully online JD program. Zoe Niesel, *Seismic Shifts: Post-COVID Legal Education and the Profession*, 15 ELON L. REV. 81, 117–118 (2023).

[63] LISA G. LERMAN ET AL., ETHICAL PROBLEMS IN THE PRACTICE OF LAW 18–19 (6th ed. 2023).

[64] *Id.* at 43.

[65] *Id.*

[66] *Id.* Though Langdell typically receives credit for the casebook method, he merely promoted an approach that originated with Professor John Pomeroy at the law school now known as New York University. Peter A. Joy, *The Uneasy History of Experiential Education in U.S. Law Schools*, 122 DICK. L. REV. 551, 552 n.6 (2018).

[67] LERMAN ET AL., *supra* note 63, at 44.

[68] *Id.*

a single professor can instruct a relatively large group of (somewhat) attentive students.[69]

One noteworthy development was the introduction of clinical legal education in the middle of the twentieth century; "[b]y the late 1950s, thirty-five law schools offered clinical experiences, with fifteen of them offering some academic credit for clinical work."[70] That novel mode of instruction "started when the Ford Foundation offered American law schools $11 million to experiment with student representation of live clients[, in part] to improve legal education by connecting students' learning with reality."[71] Still, the American Bar Association ("ABA") did not begin requiring law schools to provide every student with experiential education—in the form of a clinic, externship, or simulation course—until 2010.[72] Four years later, the ABA materially increased the required experiential education credits, boosting the floor from a single credit to six.[73] Compared to the cost effective, large classroom Socratic method model, clinical courses require low faculty-student ratios and are thus an expensive approach to educating law students.

[69] Joy, *supra* note 66, at 552–553.
[70] Niesel, *supra* note 62, at 95.
[71] LERMAN ET AL., *supra* note 63, at 44.
[72] Joy, *supra* note 66, at 554–55
[73] *Id.* at 576.

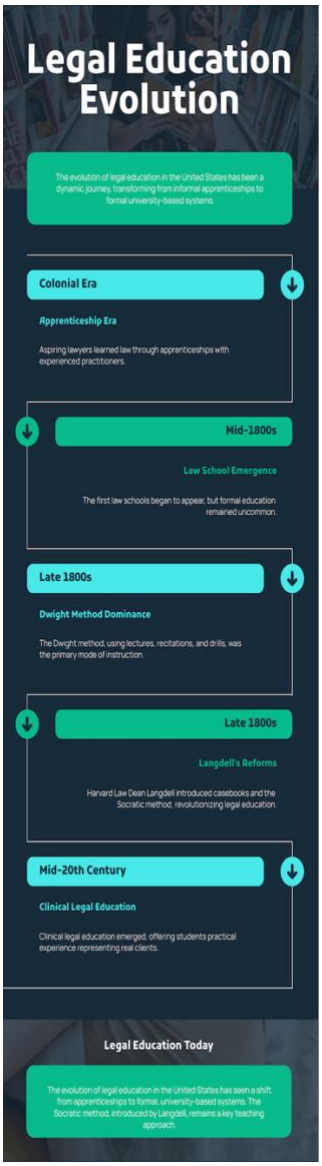


*Figure 1. Piktochart Timeline* [74]

[74] Realizing that a visual display could help make my point better than text—but uncertain as to the format that might look best—I turned to generative AI to build a timeline. First, I cut and pasted the summary above into ChatGPT, asking it for several versions of a simple timeline. It provided several outlines, but eventually converted one into a chart on my command. Unsatisfied, I turned to a different generative AI tool, Piktochart; it used the same text to instantly create ten different graphics with both text and images. One Piktochart graphic appears in the text above; the ChatGPT chart is reproduced below the line here:

**Legal Education Milestones Chart**

| Year/Period | Event/Development |
|---|---|
| **Colonial Era** | No formal law schools; apprenticeship model |
| **Mid-1800s** | Emergence of law schools |

That brief timeline suggests, at least to me, that until now legal education reforms have been modest and slow. Today, most of the first year of law school is taught in a format close to the one developed 150 years ago. Laptop computers and the internet have prompted changes in policies and practices regarding classroom activities and examinations. Pedagogical scholarship has triggered experimentation with new teaching methods, like flipped classrooms and team-based learning. But, even with those innovations, our approach to preparing lawyers has stayed somewhat constant.

Generative AI could be the invention that provokes a rapid, extensive overhaul of law school teaching methods. Done thoughtfully, this could be quite valuable to the academy—its employees, its students, and the public they are preparing to serve. After all, "[e]ducators have known for millennia that one-on-one instruction—tutoring that works with students at their own time and pace—is the best way for people to learn";[75] now, generative AI:

> raises the floor for students who have very little access to personalized learning . . . and makes a human tutor's job both easier and more effective. . . . Some students might even feel more comfortable asking certain questions to an AI, because they would have less fear of being judged or wasting the human tutor's precious (or expensive) time.[76]

Faculty may lament that their students will consult generative AI instead of visiting office hours. Still, students who are too timid or busy to seek out a professor may

| | |
|---|---|
| **1900** | Majority of lawyers lack formal education |
| **Late 1800s-Early 1900s** | Law school boom; bar admission linked to law school graduation |
| **Late 1800s** | Dwight method (Lecture, recitation, drill) |
| **1870s** | Langdell's reforms at Harvard:<br>3-year program<br>Final exams<br>Casebooks<br>Socratic method |
| **1950s** | Introduction of clinical legal education |
| **2010** | ABA requires experiential education |
| **2014** | ABA increases experiential education credits |

While these two generative AI creations are editable, I reproduced them in this Article precisely as the tools composed them to illustrate the kind of first-draft work product that a student can quickly generate—then build upon—based on the student's own research and creative thought.

[75] KHAN, *supra* note 29, at 12.

[76] *Id.* at 23.

benefit more from an exchange with an LLM than they would from engaging in no "conversation" at all.

The rising cost of legal education exacerbates the challenges that generative AI presents. It also underscores the importance of taking bold action. Students are paying as much as $80,000 in law school tuition alone per year, with the total annual cost of attendance reaching as much as $118,000 each year; that can add up to over $350,000 for a three-year degree.[77] As of 2020, more than half of new JDs entered the workforce with at least $150,000 in student debt, and one-quarter of new JD graduates began their post-graduate careers with at least $200,000 in student debt.[78] As a result, securing postgraduate employment is a high priority for most law school graduates. But students who do not appreciate how to work ethically and effectively with generative AI may struggle to quickly add value in the legal workplace of today and tomorrow.[79] Legal education simply costs too much to risk maintaining the status quo. Law schools have a responsibility to equip their students with the skills students need to secure the jobs of the very near future and then to thrive in those positions.

Law schools also need to consider their own ability to endure the generative AI revolution. Many law schools are tuition dependent, relying on students' remissions more than on state funding or endowments to continue their operations.[80] As undergraduate student debt and law school tuition continue to rise, and as document generation becomes more automated, college graduates are less likely to view a legal education as offering value—unless law schools can demonstrate that earning a JD puts those prospective students securely on a path to stable, lucrative employment. Students will need to believe that, in the future, generative AI will supplement, not replace, human lawyers. And they will need to trust that law school will prepare them to thrive professionally in the generative AI era.[81]

---

[77] Aly J. Yale, *How Much is Law School?*, WALL ST. J.: BUY SIDE (Sept. 27, 2024, 9:28 AM), https://www.wsj.com/buyside/personal-finance/student-loans/how-much-is-law-school; *Financial Aid Eligibility*, LSAC, https://www.lsac.org/choosing-law-school/paying-law-school/financial-aid-eligibility (last visited Feb. 2, 2025); Ke'alohi Wang & Brenna Swanston, *What Does Law School Cost, And Is It Worth It?*, FORBES (Apr. 29, 2024, 4:10 AM), https://www.forbes.com/advisor/education/law/law-school-cost/.

[78] *Survey Reveals the Extent and Ill Effects of Law Student Debt, Recommends Solutions*, AM. BAR ASS'N (Oct. 26, 2020), https://www.americanbar.org/news/abanews/aba-news-archives/2020/10/survey-reveals-the-extent-and-ill-effects-of-law-student-debt--r/.

[79] *See* BOWEN & WATSON, *supra* note 10, at 33.

[80] Frank H. Wu, *Where Law Schools Get Their Money*, ABOVE THE LAW (Oct. 3, 2013), https://abovethelaw.com/2013/10/where-law-schools-get-their-money/.

[81] In a parallel professional realm, the job-placement rates of the country's MBA programs have been deteriorating since 2021. That includes top-ranked schools like Harvard, whose post-graduate unemployment rate rose from 4% in 2021 to 15% in 2024. As a result of "sluggish" hiring, "some MBA students are leaning into emerging industries . . .. [O]ne chose to attend Stanford in part to get experience in artificial intelligence, which he calls 'the biggest tech inflection point in our generation.'" Claire Ballentine & Charlie Wells, *Graduates From Top MBA Programs Are Struggling to Land Jobs*, BLOOMBERG (Mar. 3 2025) https://www.bloomberg.com/news/articles/2025-03-03/job-market-for-mba-students-

Moreover, we have all been warned of the impending demographic cliff: due to a declining birth rate, the number of people eligible for college will peak soon.[82] That is compounded by a decline in college enrollment and completion.[83] Overall, the number of college graduates eligible to pursue a JD—let alone interested in pursuing one and financially able to do so—will likely be insufficient to fill the nation's collective law school seats.

Probably not all law schools will survive the market disruptions on the horizon. Well endowed, elite schools are almost certainly insulated from much of the stress.[84] But for others, we may be past the point of productive incremental change. Instead, survival may require dismantling longstanding norms and rebuilding legal education from the ground up.

## *IV. CONCRETE IDEAS: REFORM LEGAL WRITING PEDAGOGY & THE REST OF LEGAL EDUCATION*

As law schools adjust to a new generative AI normal, legal writing scholars should "be front and center";[85] Dr. Davis and I agree on that point. Through thoughtfully designed writing assignments, individualized feedback, and assigned rewrites, faculty members teaching legal analysis and writing help students develop a strong foundation—a bedrock of knowledge and skill on which the students build for the rest of their legal careers. We teach students how to organize, support, and articulate an argument so that it meets the needs and expectations of legal readers. Our scholarship and classroom experiences, coupled with our past work as lawyers, have made us experts on how lawyers can subtly persuade with language, emphasizing what's helpful and downplaying what's not. So legal writing faculty

prospective-grads-face-harder-job-search.

[82] Jennifer A. Kingson, *Schools are Bracing for the Looming "Enrollment Cliff",* AXIOS (July 3, 2024), https://www.axios.com/2024/07/03/education-enrollment-cliff-schools ("Due to a birthrate drop after the 2008 recession, schools are planning for a decadelong dry spell that's being referred to as the 'enrollment cliff' or 'demographic cliff.'"); Kevin Carey, *The Incredible Shrinking Future of College*, VOX (Nov. 21, 2022, 7:03 AM), https://www.vox.com/the-highlight/23428166/college-enrollment-population-education-crash.

[83] Richard Fry, et. al., *Is College Worth It?*, PEW RSCH. CTR. (May 23, 2024), https://www.pewresearch.org/social-trends/2024/05/23/is-college-worth-it-2/; Emily Withnall, *For Some Young People, a College Degree is Not Worth the Debt*, N.Y. TIMES (Jan. 18, 2024), https://www.nytimes.com/2024/01/13/business/college-dropout-debt.html; Paul Tough, *Americans Are Losing Faith in the Value of College. Whose Fault is That?*, N.Y. TIMES (Sept. 5, 2023), https://www.nytimes.com/2023/09/05/magazine/college-worth-price.html.

[84] Rapoport & Tiano, supra note 24 at 97 ("The T14 schools probably don't have to worry, but for the law schools in the middle of the pack, there'll be a need to pivot to more instruction about the use of technology [and] preparing their graduates . . . for careers in legal operations—the running of law firms. And for those law schools that primarily turn out graduates who hang out their own shingles, it will be imperative that the curriculum confronts legal technology head on.").

[85] Davis, *supra* note 1, at 3.

must be front and center, because pedagogical best practices for our discipline are directly and deeply impacted by the ready availability of tools that can quickly generate polished prose.

In this new era, students need just as much proficiency with language as they historically have—if not more. They still must be able to think and write independently. But they also must be able to strategically, efficiently, and ethically leverage generative AI to meet the expectations of their employers and clients. An outstanding command of language is necessary for responsible LLM use: skilled language use facilitates not only the effective prompting of an LLM but also the critical assessment and revision of LLM outputs.

But all other teaching scholars—and administrators—in the law school ecosystem must join us. Changes will be important across many layers of our work: curricular design (what classes we offer and which we require); product (in those courses, what we assign and how we assess it); process (the steps students and faculty take while testing ideas, drafting documents, and revising work product); and policies (distinguishing between authorized and unauthorized assistance, deciding when generative AI tool usage must be disclosed, and navigating allegations of academic misconduct in a time of great change).

The crux of law schools' generative AI conundrum may be this: reliance on generative AI helps the weakest students improve their assessed performance on graded assignments the most.[86] Thus, the students who might benefit most from LLM-free writing practice will likely be able to delegate that hard but important work to generative AI, sidestepping the "desirable difficulty" that we have long relied upon to facilitate their learning.[87] Generative AI makes it more likely that the novices in introductory law school classes can collect a passing grade on an assignment without achieving its learning outcome.[88]

That's not just true in legal writing courses; it's equally true anywhere in the law school curriculum where students complete written work product that is not an in-class, proctored, technology limited, closed book examination. So yes, the legal writing curriculum must change—and the rest of the curriculum must likewise adjust. This can be welcomed as an opportunity: schools can capitalize on this moment, reviving legal education just as skyrocketing tuition levels, the demographic cliff, and the proliferation of self-help generative AI tools threaten law school budgets and introduce questions about lawyers' future earnings.

The landscape is both nuanced and shifting. There are differences between using generative AI as a study partner, to enhance learning, using it as a writing assistant for an academic project: and using it as a tool while completing work

[86] Choi, *supra* note 18, at 6; BOWEN & WATSON, *supra* note 10, at 37–38.

[87] This term, coined by cognitive psychologist Robert Bjork in 1994, refers to the effort that will improve long-term performance on certain tasks. RICHARD A. BJORK, *Memory and Metamemory Considerations in the Training of Human Beings*, *in* METCOGNITION: KNOWING ABOUT KNOWING, 185, 192–93 (Janet Metcalfe & Arthur P. Shimamura, eds., 1994).

[88] *See* Davis, *supra* note 1, at 20.

product on behalf of a client. One needs a certain amount of substantive knowledge and generative AI experience to efficiently use an LLM as a writing assistant. Some students will be far ahead of others—and their faculty as well—in terms of their ability to harness generative AI's power to help them complete their coursework. Indeed, some new students will be expert at using the tool to capture or synthesize notes, to test their knowledge, or to otherwise support their academic success, while others will be entirely uninformed. And those who are accustomed to casually relying on the tools while creating study materials for their own consumption will need to learn that new considerations apply when a client's confidential information, legal precedents, and statements to a court or adversary are at play. Moreover, mastery of generative AI is elusive, if not impossible; the strengths and weaknesses of these quickly evolving tools give us all—faculty and students alike—a lot to continually learn.

Many counsel caution. Lawyers are—by nature, training, or both—risk averse. And the stakes are high. That is why some advise that legal educators resist curricular change "until GenAI evangelists can prove the pedagogical value and ethical integrity of these technologies."[89]

But gathering persuasive proof will likely be tricky. The kind of generative AI research that Dr. Davis calls for—and the kind that might prove the technology's pedagogical value—may be product specific, and the results may not endure. Generative AI tools are improving fast.[90] New products and new versions of existing products are routinely rolling out. By the time a researcher concludes and publishes, for example, a scholarly inquiry about prompting as pedagogy,[91] key aspects of prompt engineering are likely to materially change.[92] Similarly, the intellectual investment a student must make while relying on generative AI to complete coursework and pass a class is changing, and may be dropping, as the technology advances; any study will be based on a version of the technology likely to be outdated before publication.[93] It is exhausting and frustrating to attempt to shoot an arrow at a moving target. And assuming you achieve that goal, how useful is your bullseye when the target is already in the waste bin, replaced by a new one that requires you to start again?

---

[89] Karr & Schultz, *supra* note 37, at 1886.

[90] *See, e.g.*, MOLLICK, *supra* note 11, at 46 ("Because the AI available to you when you read this book is likely different from the one, I have when writing it, I want to consider general principles. We will focus on things inherent and timeless, as much as that is possible, in all current generative AI systems based on Large Language Models."); *id.* at 131 ("[T]he AI is good at writing but not that good at writing with a personal style. I think, or fear, that is likely a temporary situation.").

[91] Davis, *supra* note 1, at 21.

[92] Indeed, expertise in prompt engineering may already be an antiquated notion, as generative AI tools can now quite effectively prompt themselves.

[93] *E.g.*, Michael D. Murray, *Prompt Engineering and Priming in Law* (July 29, 2004) (unpublished manuscript) (on file at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4909532&download=yes).

Still, our obligation to assess students fairly while preparing them for the workplace of their future dictates that we take a shot at that moving target—including, arguably, instituting radical change and r*ebuilding legal education from the ground up*. That is because, with respect to teaching, learning, testing, writing, and revising, generative AI is a total game changer. In response, we need an educational revolution, not just incremental adjustments.

As legal sector analyst Jordan Furlong has emphasized, generative AI demands that legal educators take bold action—that they demolish the existing mold and start anew:

> [L]aw school is designed to produce appellate advocates. Associate training is designed to produce billing drones. The legal sector of the near future won't need these kinds of lawyers. But our lawyer formation institutions don't know how to make anything else.
>
> This isn't something you can remedy with additional required coursework, or even a specialized "law practice stream." *You can't retrofit a Chevy Impala assembly line to produce fleets of electric bikes. If you hope to meet a coming surge of demand for something new and better, then you need to build an entirely new kind of factory.* We're nowhere close to building new lawyer factories. We haven't even broken ground yet.[94]

This is a powerful statement, in part because of the vivid language. Furlong's metaphor was crafted by a human (I think), but it easily could have flowed from a human-LLM collaboration instead. We need to recognize that generative AI is capable of helping humans craft punchy prose, and may be quite helpful to humans who struggle to express themselves without it. And we need to teach students to coax this work from the technology, critically assess it, adjust it, and use it appropriately. If appropriate reliance on the emerging technology frees up time, we can augment the curriculum with other human-centered lawyering skills of the future, like empathetic listening and effective collaboration.[95] In other words, this moment of technological disruption calls for us to teach students to use generative AI—and so much more.

I leave for another day—after a bit more of the generative AI dust settles—

---

[94] Jordan Furlong, *The Race Against Time to Reinvent Lawyers*, JORDAN FURLONG (July 10, 2024), https://jordanfurlong.substack.com/p/the-race-against-time-to-reinvent?utm_source=post-email-title&publication_id=1240726&post_id=146434679&utm_campaign=email-post-title&isFreemail=true&r=2f3ihd&triedRedirect=true&utm_medium=email (emphasis added).

[95] *See id.* (noting the "growing necessity that lawyers develop and demonstrate empathy and other human skills (*e.g.*, leadership, judgment, conflict management, character, persuasion, and collaboration)").

precisely what our replacement "lawyer factories" might look like. For now, here are a few of the specific curricular adjustments that may help lay a solid foundation for the lawyer factories of the future.

A. Introduce Institution-Level Generative AI-Literacy Learning Outcomes

Beyond the adaptation of "legal writing learning outcomes" that Dr. Davis recommends, [96] law schools need to update learning outcomes for the curriculum as a whole. General purpose AI literacy incorporates at least these core competencies: "how to find the right AI for the job, how to craft better prompts, the causes and dangers of hallucinations, and especially the value of iteration."[97] Consistent with those competencies, Professor Mollick has explained that "we live in a world with AIs, and that means we need to understand how to work with them."[98] Professor Mollick expanded on that by offering four key "principles" that are critical in working with generative AI: (1) "Always invite AI to the table"; (2) "Be the human in the loop"; (3) "Treat AI like a person (but tell it what kind of person it is)"; and (4) "Assume this is the worst AI you will ever use."[99] These competencies and principles are not uniquely relevant to the traditional legal writing curriculum; they likewise apply to subject matters throughout the law school curriculum.

Beyond those four all-purpose generative AI competencies, law schools will also need additional, discipline-specific generative AI literacy learning outcomes. For instance, law students need instruction to understand issues relating to confidentiality and data protection. Not only will these updates help prepare students for the working world, but they also will help law schools demonstrate their continued relevance in the generative AI era.

Moreover, teaching generative AI would promote fairness: if we don't intentionally teach this technology, we risk that it exaggerates privilege rather than minimizing it. Those who are naturally curious about, comfortable with, or arrive at law school educated about generative AI will be prepared to reap its benefits while others are left behind. And research reveals that students' gender and race tend to influence students' familiarity and experience with AI.[100]

The ABA agrees that generative AI belongs in the law school curriculum. Its Office of the President has established a Task Force on Law and Artificial Intelligence, which encourages law schools to educate students about generative AI:

> AI . . . will transform virtually every industry sector and reallocate the tasks performed by humans and machines. AI will require lawyers and

[96] Davis, *supra* note 1, at 19.
[97] BOWEN & WATSON, *supra* note 10, at 43.
[98] *See* MOLLICK, *supra* note 11, at 46.
[99] *Id.* at 47, 52, 55, 60.
[100] BOWEN & WATSON, *supra* note 10, at 43 (noting that without deliberate teaching of AI literacy, "AI . . . looks likely to amplify existing digital inequities: Male, non-first generation, White or Asian students are already more likely to be familiar with or have used AI").

> judges to understand how AI works, how it is developed and used, what advantages it can bring, the risks it can create, and the legal and ethical issues that will arise.
>
> Law students should learn about the impact of AI on the legal profession, lawyers' ethical obligations in the context of lawyers' obligations to keep client information confidential, and employment obligations and reasonable measures that a lawyer should consider implementing to protect data.
>
> To the extent law schools elect to put more emphasis on AI, they enable students to study key legal growth areas.[101]

So, for now, the ABA counsels schools to at least arm students with basic AI literacy and address ethical considerations of using generative AI, likely within the required professional responsibility course.[102] Law schools could add new learning outcomes or go even farther by creating a new generative AI graduation requirement. But what else might schools do to best serve the needs of students, the profession, the public, and themselves?

### B. Stretch the Legal Communication Curriculum Across Three Years

To fulfill the first-year writing requirement in the ABA Standards, most law schools require a two-semester lawyering skills class.[103] This class covers a broad range of skills and demands a significant amount of student time and attention. Now, law schools may expect the course to help students achieve generative AI literacy as well. If AI-related learning objectives will be tacked onto the foundational lawyering

---

[101] *Highlight of the Issues: AI and the Legal Profession*, AM. BAR. ASS'N, https://www.americanbar.org/groups/centers_commissions/center-for-innovation/artificial-intelligence/issues/ (last visited Jan. 28, 2025).

[102] The Association of American Law Schools ("AALS") seems to agree. As of spring 2025, the AALS is working to develop a set of generative AI resources for law schools. Those resources will include materials regarding classes, programming, and workshops that law schools offer their students. March 4, 2025, email on file with author. In addition, the Institute for Law Teaching & Learning March 2025 Spring Conference was entirely devoted to adjusting law school pedagogy to account for generative AI. *Conferences,* INST. FOR L. TEACHING AND LEARNING, http://lawteaching.org/conferences/ (last visited Apr. 7, 2025).

[103] *See* ABA STANDARDS AND RULES OF PROC. FOR APPROVAL OF L. SCHS. 2024-2025 § 303(a)(2) (AM. BAR ASS'N 2024) ("A law school shall offer a curriculum that requires each student to satisfactorily complete at least . . . one writing experience in the first year . . . [that is] faculty supervised."). As of November 2024, law schools required students to complete an average of about 6 credits, across two semesters of foundational lawyering skills. About one-third of law schools required students to complete additional lawyering skills coursework after their first year of law school. November 2024 survey on file with author.

skills course, the course will need more credit hours—across more semesters—to accomplish its expanding mission.

That's not the only reason to reinforce and extend the required legal writing curriculum. As Dr. Davis notes, because of generative AI, "skills like critical reading, rhetorical analysis of text, and information literacy will be more important than ever for law students."[104] Those are skills that the first-year legal writing course incorporates; in light of generative AI, the course may now need more opportunities, again based on augmented credits, to achieve its longstanding objectives.

The promise of automation in the generative AI era makes instruction in legal analysis and communication more critical, not less. Students will need extensive legal writing instruction to internalize the expectations and norms of their chosen profession and then produce outstanding written work. Students still need to practice writing without leaning hard on generative AI; that experience will help them develop critical judgment and expertise. Plus, ensuring that students continue to write some prose independently will prepare them to work without the aid of generative AI when circumstances require that. But they also need to learn to effectively and ethically[105] write with the support of generative AI, and that will require instruction, practice, and feedback.

The existing first-year legal writing credits cannot reasonably incorporate all of that. There is a limit to what students can absorb in a single course.[106] Indeed, even if the work were dispersed among several courses, first-year *students* likely would not be able to handle it all. Especially given the pace of change in generative AI tools, law schools should consider requiring that students complete a legal communication course during more than just their first two semesters; in fact, to stay current students may need to continually update their generative-AI knowledge and skills through a six-semester-long sequence of legal communication courses.

Stretching foundational skills across six semesters might, for instance, allow students to spend the first semester focused on legal and factual research, critical reading, and legal analysis. In the second semester, they could apply those skills to objective writing projects, saving persuasive writing and oral advocacy for the second year of law school. Students could then build on that base during their third year, practicing their research, analysis, writing, and revising while preparing a variety of litigation and transactional documents. At every stage, students could receive instruction on and experiment with generative AI tools, building the confidence, expertise, and ethical awareness required to effectively use that technology in

---

[104] Davis, *supra* note 1, at 20.

[105] The ethical issues implicated by generative AI use are myriad and complex. Generative AI literacy includes the application of ethics rules that students typically do not study in detail until the second or third year of law school.

[106] *See, e.g.*, Ellie Margolis, *Doing Less—Reflections on Cognitive Load and Hard Choices in Teaching First-Year Legal Writing*, 68 ST. LOUIS UNIV. L.J. 399, 410–11 (2024) ("The overstuffed LRW course . . . contributes significantly to why students don't retain what they learn and lack the ability to transfer their knowledge to new situations. The solution is to do less.").

practice.

Students can benefit from generative AI's promises only if they learn to appreciate, and avoid, its perils. Expanding the required lawyering skills course—whether it then spans three or more semesters—should help students emerge from law school more ready to serve clients, effectively leveraging, questioning, or avoiding generative AI, as appropriate.

### C. Require Generative AI Instruction in Clinical and Other Experiential Courses

Experiential legal education aims to prepare students to practice law through hands-on training. In clinics and externships, students learn by completing real or simulated legal work rather than by reading, listening, thinking, and then talking and writing about the law. While students master legal doctrine and develop legal analysis skills through all their coursework, they typically need experiential classes to meaningfully appreciate what lawyers do, and how, while serving their clients.

Experiential courses may be the place in the curriculum where supervised use of generative AI tools is most valuable to students. As a starting point for drafting, clinic students already rely on templates, forms, and samples—just as lawyers do. Since "hybrid writing . . . will be the norm" in the future,[107] clinicians ought to integrate generative AI the same way they use other real-world lawyering materials. Further, such integration creates a natural opportunity to show students how to protect client confidentiality, consult with clients about case management strategy, and otherwise honor their ethical obligations in the generative AI era.

Experiential syllabi must evolve in concert with lawyering skills: "Thanks to document automation and similar technology, many tasks previously performed by lawyers are now assigned to software instead. Ten years ago, knowing how to draft a contract was a core lawyer competence. Today, it's knowing how to review a tech-generated contract for accuracy."[108] Again, given generative AI's capacity for creating perfectly polished (but legally and factually problematic) prose, students will need instruction, practice, and feedback to develop the confidence and judgment that this new core lawyer competence requires.

Law students will still need to develop traditional foundational skills, like drafting from scratch, as well. But that cannot justify retaining the status quo. As Jordan Furlong has observed, legal education must incorporate the tools of the trade to turn out practice-ready professionals:

> it's unhelpful to develop these skills through activities that lawyers won't be performing much longer, while neglecting to provide them with other skills and prepare them for other situations that they *will* face. Our legal education and licensing systems are turning out lawyers

[107] BOWEN & WATSON, *supra* note 10, at 132.

[108] *The Race Against Time to Reinvent Lawyers*, *supra* note 94.

> whose competence profiles simply won't match up with what people will need lawyers to do.[109]

Aligning legal education with the real-world expectations of legal employers and clients is in the interest of students, educators, and the legal profession, not to mention the broader community.

Generative AI is indeed changing the working world, including how lawyers engage with clients, decision-makers, and each other. As of 2023, seventy percent of in-house counsel (i.e., corporate clients) expected law firms to use generative AI,[110] and nearly three-quarters of all lawyers planned to use generative AI for legal work within the coming year.[111] Almost three-quarters of hiring professionals said they'd rather hire a less experienced candidate with AI skills than a more experienced candidate without them.[112] And close to eighty-percent of corporate leaders say that junior employees will be given greater responsibilities if they have AI talent.[113]

Further, generative AI is predicted to have a much larger impact on the legal industry than on many other industries, affecting as much as 44% of work in the field.[114] Because generative AI can increase efficiency dramatically, "the impact will be akin to the industrial revolution where a single individual will accomplish work that previously required a team."[115] Accordingly, most employers will not see value in an employee, including a lawyer, who is unable or unwilling to leverage generative AI for improved efficiency.

### D. Overhaul Assignments and Assessments in Both Writing and Casebook Courses

The introduction of generative AI calls upon us to rethink all law school assignments and assessments. Assignments are the vehicles for student learning, and assessments are how faculty analyze students' comprehension, measure their

---

[109] *Id.*

[110] *See New Survey Data from LexisNexis Points to Seismic Shifts in Law Firm Business Models and Corporate Legal Expectations Due to Generative AI*, LEXISNEXIS (Jan. 31, 2024), https://www.lexisnexis.com/community/pressroom/b/news/posts/new-survey-data-from-lexisnexis-points-to-seismic-shifts-in-law-firm-business-models-and-corporate-legal-expectations-due-to-generative-ai?srsltid=AfmBOorJBLMwy0t_oBJvMiIY7tWEs4kWXC72Z9T11mr9dW6qWaQJOj7q.

[111] Paul Lyon & Frank Ready, *Wolters Kluwer's Future Ready Lawyer Survey: Industry Embraces Generative AI, but is Not Yet Very Prepared for ESG Demands*, WOLTERS KLUWER (Nov. 8, 2023), https://www.wolterskluwer.com/en/news/future-ready-lawyer-2023-report.

[112] *AI at Work is Here. Now Comes the Hard Part*, MICROSOFT (May 8, 2024), https://www.microsoft.com/en-us/worklab/work-trend-index/ai-at-work-is-here-now-comes-the-hard-part#:~:text=75%25%20of%20knowledge%20workers%20use,work%20more%20(83%25).

[113] *Id.*

[114] BOWEN & WATSON, *supra* note 10, at 27.

[115] *Id.*

growth, and provide feedback to encourage their continued progress. Law schools already are introducing new assignments and assessments to better prepare students for the NextGen bar examination, which will be administered for the first time in July 2026. While schools are rethinking teaching methods to support student success in a shifting environment, they should consider the implications of generative AI as well.

Optimistically, generative AI creates promising possibilities across the curriculum. Faculty and students alike can complete their work more efficiently, meaning faculty might be able to assign and assess more small-stakes projects without overwhelming students or themselves. And generative AI could become an inexpensive, always-available complement to human tutors—one that students approach for individualized support without hesitation, confident that they will not be judged.

However, as Dr. Davis warns, to the extent that "generative AI can successfully *write for* students without their intellectual investment, this is a serious problem for legal writing courses."[116] Again, though, this serious concern is not unique to legal writing courses. Rather, it is a serious concern for the entire law school curriculum.[117] As Dr. Davis explains, if students use generative AI on their assignments, the technology may "'mask' students' capabilities as to fundamental skills."[118]

This is a significant risk, both for law schools and for the students who pay them tuition. Students lacking foundational skills may pass courses they would have failed without the benefit of leaning on generative AI. They may be eligible to continue law school instead of failing out; thus, they will waste time and money, completing law school without ever developing the competencies required to pass a bar examination or succeed as a lawyer. Accordingly, faculty who cannot "accurately assess[] the skill set of students engaged in hybrid human-AI writing" will need to develop "AI-resistant or AI-proof legal writing assignments that can authentically distinguish between and assess students' independent skills as writers and students' skills in writing with generative AI."[119]

So long as faculty are assigning and assessing take-home written work, they will likely struggle to authentically distinguish between students' skills with and without the support of generative AI. Humans work in the real world, not in a vacuum. Students, like employees, will complete projects with the assistance of available tools: for now, they will be centaurs, "switching between AI and human tasks," and with time they will become cyborgs, "blend[ing] machine and person, integrating the two deeply."[120] The opportunities to isolate what a student knows and can do without technological support are limited, and the obvious options—oral

[116] Davis, *supra* note 1, at 20.
[117] *See generally*, Perkins, *supra* note 7, at 14.
[118] Davis, *supra* note 1, at 20.
[119] *Id.* at 20–21.
[120] MOLLICK, *supra* note 11, at 136–137.

and handwritten examinations—introduce problematic complications.[121] Specifically, those testing methods undermine the anonymity that law schools tend to rely on for fair, unbiased grading; they also may be challenging to implement in conjunction with some accommodations for learning differences, like those requiring the use of laptops.

Any law school course that assesses students using written work product like a paper or take-home test should be reevaluated. Faculty should ensure that the knowledge, judgment, and skill linked with each assignment's learning outcomes can be assessed accurately and fairly. Take-home writing assignments can be designed to be AI-resistant, but they cannot be entirely AI-proof. So, faculty should assume that take-home work is, to some extent, the product of cyborg or centaur, not student alone. If that's not consistent with an assignment's goals, the professor should change what is assigned and how it is assessed. With thoughtful experimentation and information sharing, legal educators can shift the focus of assessments from polished final work products, or artifacts, to other evidence of learning: clear thinking, logical process, and sound judgment. Examples of these AI-resistant assessments include examinations that ask students to critique and build on flawed generative AI drafts and writing that emphasizes reflection and annotation.

### E. Abolish Letter Grades and the Curve

Generative AI invites law schools not only to examine curricular and pedagogical matters but also to revisit associated policies, practices, and norms. Among those are grading norms, which have long been questioned and critiqued. Grades are imperfect measures of learning. With curved grades, a student can receive a high grade without achieving an important learning outcome; likewise, a student can achieve all learning outcomes but nevertheless earn a low grade. Further, although grades may help motivate some students to invest energy and effort in their schoolwork, research shows that grades are also correlated with cheating[122] and superficial, short-term learning.[123]

---

[121] *See, e.g.*, BOWEN & WATSON, *supra* note 10, at 125–26 (to see "what students can do without AI," a professor might use proctored, handwritten, or oral exams; live or taped presentations; pop quizzes; or submission of multiple drafts with version history).

[122] *See, e.g.*, Eric. M. Anderman, Students cheat for good grades. *Why not make the classroom about learning and not testing?*, THE CONVERSATION (May 20, 2015), https://theconversation.com/students-cheat-for-good-grades-why-not-make-the-classroom-about-learning-and-not-testing-39556 ("Research indicates that students who experience classrooms in which extrinsic goals are common are more likely to cheat.").

[123] *See, e.g.*, Danielle Tully, *Behind the Curve: Rethinking Norm-Referenced Grading in First-Year Legal Writing Courses* (April 14, 2025). Brooklyn Law School, Legal Studies Paper No. 792, Available at SSRN: https://ssrn.com/abstract=5216484 (explaining that motivation for a high grade may reward "short-term learning over the deep, sustained learning necessary for law practice").

In law school, letter grades can feel more important than learning,[124] in large part, because many prestigious employers hire entry-level lawyers almost exclusively from the "top" of the class. And law school professors tend to grade on a curve: grades in the A range are available only to those whose performance pushes them to the top of a capable, competitive cohort.

Thus, grades can influence students, but not always in productive ways. Students might, for instance, choose elective classes based on perceived ease, rather than importance of content for bar examination passage or career readiness.[125] Likewise, students might be tempted to lean on unauthorized assistance if they believe the detection risk is low and the possible reward is high.

Continued reliance on curved grades is likely to incentivize generative AI use even when that use is inconsistent with pedagogical priorities or meaningful and fair assessment of knowledge and skill. So far, generative AI has been proven to boost performance most among users with the least experience and skill.[126] "This should be no surprise: AI may do average or C work, but it is consistent C work, and for the novice, average suggestions can be an improvement."[127] For strong performers, an LLM will probably not turn out superior work product.[128] Still, a student leveraging the power of an LLM might save time, avoid stress, be exposed to the seeds of a novel argument, achieve greater polish, or otherwise benefit in a way that boosts their grade on the instant assignment or elsewhere. Time saved on one assignment could help them leap ahead of their classmates in other ways, like by freeing time to study for a test, deepen their research for a paper, or sleep. So, there is a high risk that students' uneven reliance on generative AI while creating written work product will give effective technology users some advantage over their peers.[129] This seems unfair and problematic, regardless of whether the use of generative AI is prohibited (but generally undetectable and undetected) or permitted (but not taught).

To the extent that desirable difficulty—struggle, or trial and error—does prove to be a necessary component of deep learning, students will need intrinsic motivation

---

[124] *See, e.g.*, Daniel Pink, *If everyone gets an A, why not just get rid of grades?*, WASHINGTON POST (Oct. 23, 2023), https://www.nytimes.com/2023/10/23/opinion/grade-inflation-high-school.html ("Grades began as a tool for assessing learning but quickly became the point of the exercise. For many students, the goal of school isn't to learn. It's to get an A.").

[125] *See, e.g.*, Douglas A. Henderson, *Uncivil Procedure: Ranking Law students Among Their Peers*, 27 U. MICH. J. L. REFORM 399, 423 (1994) ("Upper-class students, aware of the differences in professor grading, engage in "forum shopping" to improve the vagaries in course selection and improve the basis of their grades, and therefore rank.").

[126] BOWEN & WATSON, *supra* note 10, at 29; Choi, *supra* note 18, at 15.

[127] BOWEN & WATSON, *supra* note 10, at 29–30.

[128] J.E. Korteling et. al., *Human-versus Artificial Intelligence*, FRONTIERS IN ARTIFICIAL INTELLIGENCE (March 25, 2021), https://www.frontiersin.org/journals/artificial-intelligence/articles/10.3389/frai.2021.622364/full.

[129] "12% of student ChatGPT users say it increased their GPA, reporting an average 2.9 GPA in Fall 2022 [pre-ChatGPT introduction] and 3.5 in Spring 2023." BOWEN & WATSON, *supra* note 10, at 110.

to genuinely thrive in this era,[130] because generative AI will often allow them to submit written work product consistent with a passing grade or better despite minimal investment of time and energy. For our part, educators should look for ways to shift the desirable difficulty that fosters growth to activities other than take-home writing assignments, as explained in the previous section.

One way to address concerns about fair grading in the generative AI era is to overhaul law school grading—to rethink norms, practices, and incentives. Law schools have long used grades to sort students, largely to give legal employers a quick way to differentiate job applicants from one another. Grades have always been imperfect indicators of intellect, skill, work ethic, and aptitude. And what do grades signal in the generative AI era? It's hard to know. Exceptionally high grades might reflect a student's outstanding mastery of course material, efficiency, and problem-solving ability. Recall that generative AI is least likely to improve student work product quality at the top of the curve; lower performers are much more likely to get a measurable boost in content quality by turning to generative AI. So, passing (but not exceptionally high) grades could reasonably suggest that a job applicant won't be a value-add for the employer. After all, "no one is going to hire a student who can only do C work if an AI can do it more cheaply."[131]

Moreover, if faculty want students to avoid using generative AI on their assignments, faculty need to stop grading on a curve. They should quit trying to distinguish A+s from As from Bs, as competition for the highest grades will encourage students to use generative AI in some capacity while completing an assignment. Law schools might replace letter grades with narrative comments[132] or a pass/fail system—and be willing to fail students. First-year faculty could introduce an unforgiving competency test covering core concepts; students would need to demonstrate that they have internalized certain fundamental information—becoming independently proficient—to be eligible to continue. In this era, students must be excellent or fail out, because, with generative AI, if you can't beat the AI, you are not adding value.[133]

In the short term, employers would likely respond negatively to changes in law school grading systems. Their hiring committees rely on law schools to sort students,[134] using grades as a proxy for things that are challenging for recruiters to

---

[130] *See* Barbara Glesner Fines, *Competition and the Curve*, 65 UMKC L. REV. 879, 884 (2007) (noting that while "grades may be one of the most efficient methods to induce learning behaviors[, . . . [s]tudy after study confirms that grades are not necessary to motivate learning.").

[131] BOWEN & WATSON, *supra* note 10, at 6.

[132] This suggestion was worth exploring even before the advent of generative AI. Compared to letter grades, detailed narrative feedback offers students much more information about what their skill and knowledge and mastery and gaps are.

[133] *Id.*

[134] *See* Fines, *supra* note 130, at 886–87 ("[T]he most elite (large firm) employers generally screen applicants based on their rank . . . [; c]ertainly eliminating grades entirely would be a risky proposition for law school placement programs.").

ascertain, like focus, knowledge, time management, and work ethic. But employers' reliance on law school grades should not take priority over fair treatment of students through meaningful assessment. We should let employers find a new way to measure what matters to them instead of using relative law school performance to quickly sort candidates. Moreover, in the long run, employers will benefit from developing a more accurate assessment of relevant traits than law school grades have ever been.

## *V. CONCLUSION*

Adjustment (and continual readjustment as the technology advances)—of learning outcomes, teaching methods, assignments, assessments, and more—is necessary not only in legal writing and other skills courses, but also across the law school curriculum. Generative AI presents more than a puzzle for lawyering skills faculty to solve: It introduces an opportunity for—and underscores a responsibility of—all legal educators to reimagine our collective endeavor. In casebook and skills courses alike, innovative adjustments are necessary to adequately prepare today's law students for the future of the legal profession. For that reason, generative AI will likely further erode the already withering skills-doctrine divide.

We have hard work ahead. But if we approach that work with the growth mindset we expect of our students, it should be rewarding and fun. For all its flaws, generative AI remains awe-inspiring: it is flexible, and it is fast. It routinely amazes even AI experts like Professor Mollick: "Every week, it seems like AI serves up a new miracle."[135]

This parlor remains open for collaborative exploration of law teaching in the LLM era. The paradigm shift we are experiencing is dynamic, and it compels all legal educators to be creative, open minded, and forward thinking. "It is the job of educators to help students become better thinkers. Our new job is to help them become even better thinkers with AI."[136] We may not have been looking for a new job, but generative AI has given us one, nonetheless. And that may turn out to be a real gift—a blessing—for legal education.

[135] MOLLICK, *supra* note 11, at xv.

[136] BOWEN & WATSON, *supra note* 10, at 77.